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4 MICHELLE K., et al.,  
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6 Plaintiffs,  
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8 v.  
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10 COUNTY OF SONOMA, et al.,  
11 Defendants.

Case No. 22-cv-01202-AMO

**ORDER RE MOTIONS TO DISMISS  
FOURTH AMENDED COMPLAINT**

Re: Dkt. Nos. 270, 271

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13 Before the Court are the motions to dismiss of Defendants Sonoma County and individual  
14 Sonoma County social workers (ECF 270) and Defendant Amy Lafferty (ECF 271). The motions  
15 are fully briefed, and because they were suitable for decision without oral argument, the Court  
16 vacated the hearing set for May 20, 2025. *See* Fed. R. Civ. P. 78(b); Civ. L.R. 7-6. This Order  
17 assumes familiarity with the facts and procedural history of this case. Having carefully considered  
18 the parties' papers and the arguments made therein, as well as the relevant legal authority, the  
19 Court **GRANTS** Sonoma County's motion and **GRANTS IN PART AND DENIES IN PART**  
20 Lafferty's motion for the following reasons.

21 **I. DISCUSSION**

22 Plaintiffs Michelle K., P.K., and Kristin K. filed the operative fourth amended complaint  
23 ("FAC") on October 31, 2024. ECF 255. The FAC brings 13 causes of action related to the  
24 alleged abuse Plaintiffs suffered at the hands of their adoptive parents, Jose and Gina Centeno  
25 ("the Centenos"), and names as defendants Sonoma County and eleven Sonoma County social

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1 workers (“County Social Workers”),<sup>1</sup> the Centenos, TLC Child & Family Services, and Amy  
2 Lafferty, the adoption services representative of the State of California in charge of P.C. and  
3 M.C.’s adoption.

4 On December 6, 2024, Sonoma County and the County Social Workers (together, “County  
5 Defendants”) filed a motion to dismiss the FAC for failure to state a claim, ECF 270, as did  
6 Lafferty, ECF 271. Under Rule 12(b)(6) of the Federal Rules of Civil Procedure, a complaint may  
7 be dismissed for failure to state a claim for which relief may be granted. Fed. R. Civ. P. 12(b)(6).  
8 Rule 12(b)(6) requires dismissal when a complaint lacks either a “cognizable legal theory” or  
9 “sufficient facts alleged” under such a theory. *Godecke v. Kinetic Concepts, Inc.*, 937 F.3d 1201,  
10 1208 (9th Cir. 2019) (citation omitted). Whether a complaint contains sufficient factual  
11 allegations depends on whether it pleads enough facts to “state a claim to relief that is plausible on  
12 its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550  
13 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content that allows  
14 the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”  
15 *Id.* at 678.

16 When evaluating a motion to dismiss, the court “accept[s] factual allegations in the  
17 complaint as true and construe[s] the pleadings in the light most favorable to the nonmoving  
18 party.” *Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008)  
19 (citation omitted). However, “allegations in a complaint . . . may not simply recite the elements of  
20 a cause of action [and] must contain sufficient allegations of underlying facts to give fair notice  
21 and to enable the opposing party to defend itself effectively.” *Levitt v. Yelp! Inc.*, 765 F.3d 1123,  
22 1135 (9th Cir. 2014) (citations omitted). The Court may dismiss a claim “where there is either a  
23 lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal  
24 claim.” *Hinds Invs., L.P. v. Angioli*, 654 F.3d 846, 850 (9th Cir. 2011). Courts should “freely  
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<sup>1</sup> The County Social Workers include Josephine McCay, Frederick Jones, Monisha Sashital, Linda  
27 Morrissey, Leslie Winters, Janet Taylor, De La Cruz, Andrea Kroeze, Deborah Gilday, D.  
28 Romero, and the Estate of Bob Harper. TLC Child & Family Services was dismissed as a  
Defendant on December 19, 2024. ECF 278. The claims against Bob Harper were dismissed on  
March 13, 2025. ECF 317.

1 give leave” to amend “when justice so requires.” Fed. R. Civ. P. 15(a)(2).

2 The Court begins its assessment with the County Defendants’ motion to dismiss before  
3 turning to Amy Lafferty’s.

4 **A. County Defendants’ Motion to Dismiss**

5 County Defendants move to dismiss certain claims asserted against them, including  
6 Michelle K. and P.K.’s claim brought under 42 U.S.C. § 1983 against the County Social Workers  
7 for providing false information to a court (Count 3), Kristin K.’s breach of mandatory duty claim  
8 (Count 12), and Kristin K.’s negligent infliction of emotional distress claim (Count 13). ECF 270  
9 (“County Mot.”). Each claim is discussed in turn below.

10 **1. Michelle K. and P.K.’s Judicial Deception Claim**

11 Michelle K. and P.K. bring claims against the County Social Workers under the  
12 substantive due process clause of the Fourteenth Amendment, which “protects a foster child’s  
13 liberty interest in social worker supervision and protection from harm inflicted by a foster parent.”  
14 *Tamas v. Dep’t of Soc. & Health Servs.*, 630 F.3d 833, 842 (9th Cir. 2010). County Defendants  
15 challenge Count 3, which asserts a claim against the County Social Workers for interfering with  
16 Plaintiffs’ proper placement by providing false information to a court, in violation of Plaintiffs’  
17 Fourteenth Amendment rights. FAC ¶ 101. “An individual has a well-established constitutional  
18 right to be free from deception in the presentation of evidence during juvenile dependency  
19 proceedings.” *Rieman v. Vazquez*, 96 F.4th 1085, 1093 (9th Cir. 2024) (citing *Greene v. Camreta*,  
20 588 F.3d 1011, 1034-35 (9th Cir. 2009)). “To support a § 1983 claim that a social worker  
21 engaged in judicial deception, a plaintiff must show ‘(1) a misrepresentation or omission (2) made  
22 deliberately or with a reckless disregard for the truth, that was (3) material to the judicial  
23 decision.’ ” *Id.* at 1093-94 (citing *Scanlon v. Cnty. of Los Angeles*, 92 F.4th 781, 799 (9th Cir.  
24 2024)). A misrepresentation or omission is “material” where a court “would have declined to  
25 issue the order had [the defendant] been truthful.” *Greene*, 588 F.3d at 1035. Such claims must  
26 meet the heightened pleading standard of Federal Rule of Civil Procedure 9(b), which requires that  
27 the claim be stated “with particularity,” i.e., it must allege “the who, what, when, where, and how”  
28 of the judicial deception. *See Benavidez v. Cnty. of San Diego*, 993 F.3d 1134, 1145 (9th Cir.

1 2021).

2       The Court previously dismissed this claim with leave to amend, finding Plaintiffs had not  
3 identified the substance of the purportedly false information, in which court Defendants presented  
4 false information, or how the information was known to be wrong by Defendants at the time they  
5 provided it to the court. Order (ECF 242) at 11. In the FAC, Plaintiffs added allegations that the  
6 “knowingly wrongful and false information” Defendants provided to the court was provided via  
7 “the Adoption Reports submitted to the [c]ourt in connection with the adoption of Michelle K. and  
8 P.K., and in connection with the subsequent adoption of P.C. and M.C.,” and that “[s]uch  
9 information includes, but is not limited to, statements that the Centenos were providing a stable,  
10 secure and nurturing environment to the children.” FAC ¶ 101. County Defendants argue that,  
11 while marginally more specific than the allegations in the third amended complaint, the allegations  
12 in the FAC remain insufficient to state a claim for presenting false information, as Plaintiffs have  
13 not specifically alleged how or when each of the social workers provided the allegedly false  
14 information. County Mot. at 9. Further, County Defendants argue the FAC lacks factual  
15 allegations establishing the social workers knew that the information was false at the time or how  
16 they learned it was false. *Id.*

17       The Court agrees. While the FAC is an improvement from the lone conclusory allegation  
18 in the third amended complaint, it still falls short of what Rule 9(b) requires. Plaintiffs must allege  
19 facts that sufficiently “put the County [Defendants] on notice of the timing, subject of, and parties  
20 to the alleged misrepresentation . . . to prepare a defense.” *Benavidez*, 993 F.3d at 1149. The  
21 *Benavidez* plaintiffs, for example, provided such notice by naming the two particular social  
22 workers who presented a detention report to the juvenile court, identifying the report’s specific  
23 omissions (that the plaintiffs’ parents had not been notified of the children’s medical  
24 examinations), and providing a three-day range of dates in which defendants would have provided  
25 the information to the court. *Id.* Here, in contrast, Plaintiffs do not allege which of the seven  
26 individually-named County Social Workers prepared and submitted the reports or what  
27 misrepresentations or omissions the reports made. *See, e.g.*, FAC ¶ 53 (alleging Defendants did  
28 not document or report concerns “to the Court in the course of the adoption proceedings of P.C.

1 and M.C., despite the legal requirement to do so, and in order to deceive the Juvenile Court”).  
2 Moreover, the Court is unable to discern whether the responsible Defendants knew or should have  
3 known their representations in the reports were false at the time that they made those  
4 representations. Plaintiffs need not allege “a precise time frame,” *United States v. United*  
5 *Healthcare Ins. Co.*, 848 F.3d 1161, 1180 (9th Cir. 2016) (quoting *Cooper v. Pickett*, 137 F.3d  
6 616, 627 (9th Cir. 1997)), but they provide no guidance other than noting the omissions were “in  
7 the course of the adoption proceedings,” FAC ¶ 53. This falls short of the particularity required.

8 The lack of specificity is further problematic because the Court cannot discern materiality.  
9 To be sure, it is not difficult to imagine that misrepresentations about a child’s safety would be  
10 material to a juvenile court’s assessment of an adoption, but Plaintiffs have not adequately pleaded  
11 which particular misrepresentations were made about the Centenos’ treatment of Plaintiffs or that  
12 the juvenile court relied on those misrepresentations in approving the adoption. *See Castaneda v.*  
13 *Cnty. of San Bernardino*, No. 5:23-CV-02246-MRA-JDE, 2024 WL 4224000, at \*7 (C.D. Cal.  
14 Apr. 10, 2024) (finding judicial deception claim insufficient where plaintiffs “refer[red] to [the]  
15 reports only generically, without identifying the context in which these reports were submitted or  
16 providing sufficient information from which the Court can reasonably infer that the juvenile court  
17 relied on misrepresentations in the report in reaching a judicial determination”). Thus, the Court  
18 **GRANTS** the motion to dismiss Count 3. Because Plaintiffs may be able to state a claim if they  
19 add allegations regarding the purported judicial deception, the Court cannot conclude amendment  
20 would be futile, and therefore grants the motion with leave to amend. *See Barahona v. Union Pac.*  
21 *R.R. Co.*, 881 F.3d 1122, 1134 (9th Cir. 2018) (“[L]eave to amend should be denied as futile ‘only  
22 if no set of facts can be proved under the amendment to the pleadings that would constitute a valid  
23 and sufficient claim or defense.’ ”).

24 **2. Kristin K.’s Breach of Mandatory Duty Claim (Count 12)**

25 Next, County Defendants move to dismiss Kristin K.’s breach of mandatory duty claim.  
26 Kristin K. alleges County Defendants breached a mandatory duty owed to her by violating 42  
27 U.S.C. § 671(a)(31) and Welfare and Institutions Code § 16002. Kristin K. had not previously  
28 asserted a breach of mandatory duty claim, and in its Order, the Court did not authorize Plaintiffs

1 to add a new claim, but rather permitted Plaintiffs to amend their allegations to bolster the claims  
2 that the Court dismissed. *See ECF 242.* Plaintiffs' introduction of this claim absent Defendants'  
3 consent or leave of court therefore falls outside the permission granted and violates Federal Rule  
4 of Civil Procedure 15(a)(2). *See DeLeon v. Wells Fargo Bank*, No. 10-CV-01390-LHK, 2010 WL  
5 4285006, at \*3 (N.D. Cal. Oct. 22, 2010) ("[W]here leave to amend is given to cure deficiencies in  
6 certain specified claims, courts have agreed that new claims alleged for the first time in the  
7 amended pleading should be dismissed or stricken."). County Defendants' motion to dismiss  
8 Count 12 is thus **GRANTED**.

9                   **3. Kristin K.'s NIED Claim (Count 13)**

10                  County Defendants move to dismiss Kristin K.'s negligent infliction of emotional distress  
11 ("NIED") claim against them. County Mot. at 14-18. Plaintiffs allege Kristin K. was  
12 "emotionally traumatized" from witnessing the continued negative impacts of Defendants' failure  
13 to protect her siblings, Michelle K. and P.K., from the Centenos' abuse. FAC ¶¶ 159-177. County  
14 Defendants argue they are protected from this claim by state immunities. Under California law,  
15 social workers are absolutely immune under California Government Code §§ 820.2 and 821.6 for  
16 discretionary decisions relating to the investigation of child abuse. *Jacqueline T. v. Alameda Cnty.*  
17 *Child Protective Servs.*, 155 Cal. App. 4th 456, 466 (2007), *as modified* (Oct. 4, 2007) (collecting  
18 cases); *see also Alicia T. v. Cnty. of Los Angeles*, 222 Cal. App. 3d 869, 881 (1990), *modified*  
19 (Aug. 16, 1990) (holding that "social workers must be absolutely immune from suits alleging the  
20 improper investigation of child abuse"). Only when social workers are alleged to have acted with  
21 malice in committing perjury, fabricating evidence, failing to disclose known exculpatory  
22 evidence, or obtaining testimony by duress, fraud, or undue influence does this immunity not  
23 apply. Cal. Gov. Code § 820.21(a). "Malice" is defined as "conduct that is intended . . . to cause  
24 injury to the plaintiff or despicable conduct that is carried out . . . with a willful and conscious  
25 disregard of the rights or safety of others." Cal. Gov. Code § 820.21(b).

26                  The Court previously found that Plaintiffs' allegations regarding County Defendants'  
27 failure to properly investigate the allegations of child abuse fell squarely within the Government  
28 Code immunities, and thus dismissed Kristin K.'s NIED claim with leave to amend. Order at 21.

1 The Court reaches the same conclusion here. Kristin K.'s claim remains premised on Defendants' 2 allegedly inadequate investigation of child abuse, *see* FAC ¶ 169 ("Defendants . . . had a duty to 3 immediately investigate a potential claim for child abuse or neglect . . ."), and the FAC still does 4 not allege with specificity that County Defendants' conduct was carried out with malice. Because 5 Plaintiffs failed to remedy the deficiencies identified by the Court, the motion to dismiss Kristin 6 K.'s NIED claim is **GRANTED** without leave to amend.

7           **A. Amy Lafferty's Motion to Dismiss**

8           Amy Lafferty moves to dismiss Plaintiffs' claims against her on the basis that she is 9 entitled to statutory immunity and because Plaintiffs have failed to state a claim. ECF 271 10 ("Lafferty Mot."). Lafferty's arguments are discussed in the order presented in her motion.

11           **1. Fourteenth Amendment Claims**

12           Plaintiffs assert three causes of action against Lafferty under 42 U.S.C. §§ 1983 and 1985 13 related to her failure to adequately respond to or investigate reports of abuse and for providing 14 false information to a court. Lafferty moves to dismiss each of these causes of action for failure to 15 state a claim. Lafferty Mot. at 9-13.

16           **a. Section 1983**

17           First, Lafferty moves to dismiss Plaintiffs' Section 1983 claim in Count 1 based on 18 Lafferty's failure to follow up on reports of the Centenos' abuse of Michelle K., P.K., and Kaya K. 19 Lafferty Mot. at 11-12. The Court previously denied Lafferty's motion to dismiss this claim 20 because Plaintiffs sufficiently alleged there was an objectively substantial risk of harm, that 21 Lafferty was subjectively aware of facts from which an inference could be drawn of the risk of 22 serious harm, and that a reasonable officer would have been compelled to draw that inference. 23 Order at 25. Lafferty again argues Plaintiffs' claims are conclusory and fail to meet the "high 24 legal standard" of deliberate indifference, Lafferty Mot. at 11, but she fails to show why the Court 25 should depart from its previous ruling. Thus, Lafferty's motion to dismiss Count 1 is **DENIED**.

26           Next, Lafferty moves to dismiss Plaintiffs' state-created danger claim (Count 2). Lafferty 27 Mot. at 12. The Court previously dismissed this claim without leave to amend. Order at 25. 28 Accordingly, Plaintiffs' inclusion of this claim in the FAC is improper and their request in their

opposition for the Court to reconsider its previous ruling dismissing the claim is misplaced and procedurally improper. *See* Civ. L.R. 7-9(a). Thus, the Court **GRANTS** Lafferty's motion to dismiss Count 2.

Finally, Lafferty moves to dismiss Plaintiffs' Section 1983 claim based on interference with proper placement by providing false information to a court. Lafferty Mot. at 12-13. For the reasons discussed in Section I(A)(1) above, the Court **GRANTS** Lafferty's motion to dismiss this claim. As Plaintiffs may be able to allege additional facts sufficient to support a judicial deception claim, dismissal is with leave to amend, but because Lafferty oversaw the adoptions of nonparties P.C. and M.C., and not those of Michelle K. or P.K., the Court is skeptical that amendment could cure the FAC's defects as to this claim.

**b. Section 1985**

Lafferty also moves to dismiss the Section 1985 claims because Plaintiffs fail to allege any facts showing conspiracy. Lafferty Mot. at 13-14. “To state a cause of action under § 1985, a complaint must allege (1) a conspiracy, (2) to deprive any person or a class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, (3) an act by one of the conspirators in furtherance of the conspiracy, and (4) a personal injury, property damage or a deprivation of any right or privilege of a citizen of the United States.” *Gillespie v. Civiletti*, 629 F.2d 637, 641 (9th Cir. 1980) (citing *Griffin v. Breckenridge*, 403 U.S. 88, 102-103 (1971)). “A mere allegation of conspiracy without factual specificity is insufficient.” *Karim-Panahi v. Los Angeles Police Dep’t*, 839 F.2d 621, 626 (9th Cir. 1988). To satisfy the first element, “the parties to have conspired must have reached a unity of purpose or common design and understanding, or a meeting of the minds in an unlawful arrangement.” *Gilbrook v. City of Westminister*, 177 F.3d 839, 856 (9th Cir. 1999).

The Court previously dismissed the Section 1985 claims against Lafferty with leave to amend because the third amended complaint lacked any factual allegations that Lafferty engaged in a conspiracy and solely stated legal conclusions. Order at 26. The FAC adds allegations regarding conspiracy, but they are similarly conclusory. *See, e.g.*, FAC ¶ 28 (Lafferty and other Defendants “conspired to ignore the[] known inadequacies [of the Centeno household] and agreed

1 to place Plaintiff P.K. and Michelle K.” there nonetheless). In the Ninth Circuit, a claim under  
2 Section 1985 must plead specific facts supporting the allegation that defendants conspired  
3 together, and Plaintiffs’ allegations do not meet that bar. *Karim-Panahi*, 839 F.2d at 626.  
4 Viewing the allegations in the FAC in the light most favorable to Plaintiffs, the Court finds it  
5 “contains legal conclusions but no specification of any facts to support the claim of conspiracy,”  
6 *id.*, and therefore **GRANTS** Lafferty’s motion to dismiss the Section 1985 claims. Because  
7 Plaintiffs may be able to allege additional facts sufficient to support a claim for conspiracy, the  
8 Court grants leave to amend.

9                   **2.         Breach of Mandatory Duty**

10                  Plaintiffs allege Lafferty breached a mandatory duty imposed by California Adoption  
11 Program Regulations §§ 35177, 35181, and 35183 by failing to conduct certain interviews during  
12 the adoption process. Those regulations provide for discretion in assessing the adoptive applicant  
13 but require the agency to conduct face-to-face interviews with adoptive applicants and individuals  
14 residing in the household. Lafferty moves to dismiss Plaintiffs’ breach of mandatory duty claims.  
15 Lafferty Mot. at 14-15. The Court previously found Plaintiffs sufficiently alleged Lafferty  
16 breached her mandatory duty to conduct face-to-face interviews of all adoptive applicants. *See*  
17 Order at 26-27.

18                  In this round of briefing, Lafferty does not challenge the sufficiency of Plaintiffs’  
19 allegations, but rather argues for the first time that she is entitled to immunity under Government  
20 Code § 821.6, which provides that “[a] public employee is not liable for injury caused by his  
21 instituting or prosecuting any judicial or administrative proceeding within the scope of his  
22 employment, even if he acts maliciously and without probable cause.” However, the Ninth Circuit  
23 has held “that section 821.6 only provides immunity in suits for malicious prosecution.” *Garmon*  
24 *v. Cnty. of Los Angeles*, 828 F.3d 837, 847 (9th Cir. 2016). As Plaintiffs do not assert a claim of  
25 malicious prosecution, Lafferty is not immune from Plaintiffs’ breach of mandatory duty claim.

26                  Lafferty further argues that the Adoption Regulations mandate agency action, and thus do  
27 not apply to her as an individual. Lafferty Mot. at 15. Lafferty cites no authority, and in any  
28 event, this objection is barred by Federal Rule of Civil Procedure 12(g)(2) as Lafferty did not raise

1 it in her motion to dismiss the third amended complaint. Thus, the Court **DENIES** Lafferty's  
2 motion to dismiss Count 5.

3 **II. CONCLUSION**

4 For the foregoing reasons, the Court grants the County Defendants' motion and grants in  
5 part and denies in part Lafferty's motion.

6 As to the County Defendants, the Court **GRANTS** the motion to dismiss the Section 1983  
7 claim in Count 3 with leave to amend. The Court **GRANTS** the County's motion to dismiss  
8 Counts 12 and 13 without leave to amend.

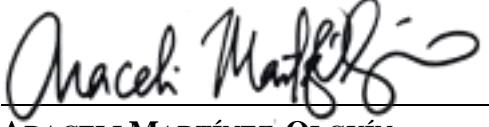
9 As to Lafferty, the Court **GRANTS** the motion to dismiss the Section 1983 claim in Count  
10 2 without leave to amend. The Court **GRANTS** the Section 1983 claim in Count 3 and the  
11 Section 1985 claims in Counts 1, 2, and 3 with leave to amend. The Court **DENIES** the motion to  
12 dismiss Count 5 and the Section 1983 claim in Count 1.

13 Any amended complaint is due by **July 9, 2025**. Leave to amend is granted solely to cure  
14 the defects identified in this Order. No parties or claims may be added without leave of Court or  
15 stipulation of Defendants. Plaintiffs are cautioned that failure to remedy the defects identified in  
16 this Order will result in dismissal of the claims without leave to amend. Moreover, the parties are  
17 cautioned that relitigating matters already resolved by the Court, unless explicitly allowed by the  
18 Federal Rules or leave of court, will result in sanctions.

19 If Plaintiffs elect not to file an amended complaint, they shall file a notice of intent to stand  
20 on the fourth amended complaint no later than **July 9, 2025**.

21  
22 **IT IS SO ORDERED.**

23 Dated: June 16, 2025

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25   
26 **ARACELI MARTÍNEZ-OLGUÍN**  
27 **United States District Judge**